

## **Uintah County mislabels roads to boost general fund, lawsuit claims**

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VERNAL - A truck slips, slides and sashes down the muddy tracks of Glen Bench Road through the oil fields of eastern Utah's Uintah County.

It no doubt would surprise the driver that the county lists this rut-ridden road as "paved" - a designation that brings five times more money to Uintah's coffers than a dirt road.

The map doesn't match reality on Chipeta Grove Road either. It lists the muddy road south of Vernal as "graveled," a moniker that brings three times as much funding to Uintah's road budget as it would if it were labeled "dirt."

County officials deny any wrongdoing, but this much is certain: The state and federal governments are paying hundreds of thousands of dollars to maintain paved roads with no hint of pavement and gravelled roads with nary a trace of gravel.

The funding is meant to help counties keep so-called Class B roads open. But it's up to each county to report which roads are paved, gravel and dirt.

"It's basically an honor system," said Scott Nay, road-inventory supervisor for the Utah Department of Transportation. "We depend on county officials to give us an honest report."

The state does not audit county funding requests for Class B roads because it doesn't have the staff, Nay said. UDOT simply forks over money - from a mix of state and federal dollars - depending on a county's grant request.

"It's a very subjective system," Nay said. "It can be a close call as to whether a county defines a road as 'dirt' or 'gravel.'" Each year since 1997, Utah counties have designated the miles of paved, gravel and dirt roads they have in their applications for highway grants through UDOT. For every mile of paved Class B road, they pocket \$2,900 a year compared with \$580 for every mile of dirt road. For every mile of gravel road, counties collect \$1,560. From 1998 to 2004, Uintah County received more than \$19.6 million in Class B road funds.

But former county road managers allege that Uintah intentionally mislabels its Class B roads to secure significantly more money than it should. They say hundreds of miles of dirt roads south of Vernal in the oil fields have been improperly labeled as gravel.

"They were talking about taking every dirt road they could" to list as gravel, said former county roads superintendent Lonnie Hogan. "Even the roads across BLM land."

According to forms submitted by the county to UDOT, Uintah's miles of Class B paved roads fell from 622 to 534 from March 2000 to March 2002. During that same period, however, the county's gravel roads shot up from 532 miles to 761.9 miles - a 43 percent jump.

Despite the odd shrinkage in paved roads, the county enjoyed a net gain in Class B road funding, thanks to the 230-mile increase in gravel roads.

Assistant Uintah County Attorney Ed Peterson attributes the wide swing to a better inventory by the county's new global positioning system (GPS).

"As we were documenting the roads, we found there were more roads than we had claimed. That is what the change probably was," he said. "We didn't build more roads."

But Vernal road contractor Gil Mitchell has another explanation: Uintah County had to reduce its reported paved roads when Hogan and Kathryn Erickson, former director of the Uintah Special Service District, sued the county.

"The lawsuit was coming, so they changed those 'paved' roads to 'gravel,'" Mitchell said.

The federal suit - filed in June 2002 but only recently unsealed for public access - accuses Uintah County officials of "falsely representing the miles of Class B roads."

When Mitchell complained to the County Commission that Class B road reports were inaccurate, the county canceled his contracts, he said.

John Kay, who succeeded Hogan at the county road department, also is suing Uintah County alleging misuse of highway funds. In an interview, he said his Class B roads budget amounted to about half what the county was taking in from UDOT in Class B road funds.

"The annual budget for Class B roads was \$1.2 million to \$1.4 million. That was at a time when they were getting \$2.8 million in Class B money," Kay said.

Kay, Hogan and Erickson contend that the County Commission fired them when they complained of irregularities in the road budget.

Many of the roads - which stretch to the Book Cliffs near Grand County - are dirt but have been labeled "gravel" by the county on UDOT funding maps, according to Kay, Mitchell and Hogan.

Beyond that, millions in Class B road funding has been illegally shifted to Uintah County's general fund through a scheme of double billing, Hogan and Erickson allege in their lawsuit.

"For example, the county would double-pay Wheeler [Machinery Co.] for a piece of equipment," Hogan said. "If it was \$55,000, they would pay them twice. When the money came back [from Wheeler], the clerk-auditor's office would put it in the general fund."

By inflating the number of paved and gravel roads and then shifting Class B road money to the general fund, Uintah County has been able to build new parks and a community center, according to Hogan's and Erickson's lawsuit.

Attorneys for Uintah County counter in court filings that the suit should be dismissed for lack of proof. They deny the county misrepresented its Class B roads or that officials funneled money from the road fund to the general fund.

"Uintah County roads are often paved with native tar sands, which is permitted by UDOT," said Jesse Trentadue, an attorney for Uintah County. "UDOT does not require gravel when the road crosses oil shale, yet those roads are considered gravel."

But according to UDOT's Nay, paved and gravel roads must be higher than the surrounding ground and must be engineered to drain water. Simply grading a path across oil shale does not comprise a paved or gravel road, Nay said.

Uintah County has done everything by the book, said County Commissioner Jim Abegglen, who has been in office since 2003.

In the end, Abegglen added, UDOT is responsible for ensuring the county's Class B road submittals are accurate.

"UDOT should double-check it," he said.

Uintah County's applications for Class B road money are as accurate as can be expected, given the area's large number of roads, Abegglen said. GPS technology is improving the county's ability to make precise inventories.

Abegglen concedes that it is "practically impossible" for the county to keep track of roads in the oil fields. Still, he insists that at one time Glen Bench Road was paved and that Chipeta Grove Road was once graveled.

"The heavy truck traffic out there really tears up those roads."

If there are misrepresentations, Abegglen said, Hogan, Erickson and Kay are not without responsibility.

"They are the ones who were in charge of the maps," the commissioner said.

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